

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

FRONTIER BANK,)
)
Plaintiff,)
)
v.) Case No. 3:05 CV 901-F
)
R & L TRUCKING COMPANY, INC.,)
et als.,)
)
Defendants.)

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION REQUESTING THE
COURT TO ORDER DEFENDANTS TO EXECUTE ARBITRATION FORMS**

Come now the Defendants, R & L Trucking Company, Inc. (hereinafter referred to as "R&L"), SRM Financial, Inc. (hereinafter referred to as "SRM") and Stanley R. Melton, IV (hereinafter referred to as "Melton"), by through their undersigned attorneys of record, without submitting to the jurisdiction of this Court, and respond to Plaintiff's Motion Requesting the Court to Order Defendants to Execute Arbitration Forms, without waiving the right to file any and all motions prior to responsive pleadings, including but not limited to the right to file motions to compel arbitration, and specifically objecting to and challenging this Court's in persona and subject matter jurisdiction, and as grounds therefore, state as follows:

1. On or about the 17th day of October, 2005, this Honorable Court granted Defendant's motion to compel arbitration.
2. On or about the 25th day of January, 2006, counsel for Plaintiff forwarded a completed application to the American Arbitration Association to counsel for

Defendants to sign and return to counsel for Plaintiff. A copy of the letter from Plaintiff's counsel to Defendants' counsel is attached hereto as Exhibit "A".

3. On or about the 10th day of February, 2006, in response to Plaintiff's request for Defendants to sign arbitration forms, counsel for Defendants wrote Plaintiff's counsel informing him that the Defendant's would not sign the forms but would join issue once Arbitration proceedings were begun. A copy of the letter from Defendants' counsel to Plaintiff's counsel is attached hereto as Exhibit "B".

4. Plaintiff does not need signatures from the defense to begin arbitration proceedings.

WHEREFORE, Defendants pray this Honorable Court will deny Plaintiff's motion.

Respectfully submitted this the 11th day of April, 2006.

WHITTELSEY, WHITTELSEY & POOLE, P.C.

/s/ DAVIS B. WHITTELSEY
BY: DAVIS B. WHITTELSEY (WHI067)
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon the following individuals, by hand delivering a copy or by placing it in the United State mail, postage prepaid, at their correct addresses this the 11th day of April, 2006.

Charles N. Parnell, III
Parnell & Crum, P.A.
Post Office Box 2189
Montgomery, Alabama 36102-2189

/s/ DAVIS B. WHITTELSEY
DAVIS B. WHITTELSEY